

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WANDA SHADIX and SHERREL
SHADIX,

Plaintiffs,

v.

YUM! BRANDS, INC., TACO
BELL OF AMERICA, LLC, and
JOHN DOES 1-5,

Defendants.

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CIVIL ACTION FILE NO

NOTICE OF REMOVAL

Defendants, Yum! Brands, Inc. (“Yum”) and Taco Bell of America, LLC (“Taco Bell”) (collectively “Defendants”), hereby provide Notice of the Removal of the above captioned action from the State Court of Gwinnett County to the United States District Court for the Northern District of Georgia, Atlanta Division, and state as follows:

1. Yum and Taco Bell are the named Defendants in a Civil Action filed on or about July 29, 2021 in the State Court of Gwinnett County, styled as *Wanda Shadix and Sherrel Shadix, Plaintiffs, v. Yum! Brands, Inc., Taco Bell of America, LLC, and John Does, 1-5, Defendants*, Civil Action Number: 21-C-05596-S1 (the “State Court Action”).

2. Taco Bell was served with a copy of the Summons and Complaint in the State Court Action on August 2, 2021.

3. Yum was served with a copy of the Summons and Complaint in the State Court Action on August 11, 2021.

3. The Complaint for Damages alleges that on June 10, 2020, Plaintiff, Wanda Shadix sustained serious and permanent physical and emotional injuries, as well as pain and suffering as a result of the consumption of a food product purchased from the Taco Bell restaurant located at 2234 U.S. Highway 41, Calhoun, Georgia. Plaintiffs contend that as a result of the consumption of said food product, Wanda Shadix contracted Guillain-Barre syndrome, a rare disorder causing weakness and paralysis, and underwent months of inpatient medical treatment and rehabilitation.

4. Pursuant to 28 U.S.C. § 1332(a), the district courts shall have original jurisdiction of all civil actions where the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs, and is between (1) citizens of different States.

5. On May 24, 2021, counsel for Plaintiffs sent a settlement demand to the Defendants in the amount of \$3,000,000.00 along with medical records and

medical bills in the amount of \$1,762,092.21. See Demand letter, attached hereto as Exhibit A.¹ (Emphasis added).

6. Pursuant to 28 U.S.C. § 1332(c)(1), a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business. See 28 U.S.C. 1332(c)(1).

7. Taco Bell is a Delaware limited liability company with a principal place of business in Irvine, California. The citizenship of a LLC, however, is determined by the citizenship of all of its members. *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004); See also *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). The sole member of Taco Bell is Yum, a North Carolina corporation with a principal place of business in Louisville, Kentucky. As such, for purposes of 28 U.S.C. §1332(c)(1), Defendant Taco Bell is a citizen of the State of North Carolina and the Commonwealth of Kentucky. It is not a citizen of the State of Georgia. Meanwhile, for purposes of 28 U.S.C. §1332(c)(1), Defendant Yum is also a citizen of the State of North Carolina and the Commonwealth of Kentucky. It is not a citizen of the State of Georgia.

8. According to the Complaint for Damages, Plaintiffs are citizens and residents of Gordon County, Georgia.

¹ In order to protect Plaintiff Wanda Shadix, the Defendants are providing pages 1, 10, 11 and 13 of the letter. The remainder of the letter, which contains a discussion of the Plaintiff Wanda Shadix's medical treatment can be filed, if necessary.

9. As such, pursuant to 28 U.S.C. §1332, complete diversity exists in the case at bar. Plaintiffs are citizens of the State of Georgia and Defendants are citizens of the State of North Carolina and the Commonwealth of Kentucky.

10. As such, pursuant to 28 U.S.C. Section 1441, Defendants remove the within action to this Court in that it is a civil action between citizens of different states (Plaintiffs: Georgia; Defendants: North Carolina and Kentucky) and the amount placed in controversy exceeds the sum of \$75,000.00.

11. Pursuant to 28 U.S.C. Section 1446(a) a copy of all process, pleadings, orders and other papers or exhibits of every kind now on file in the State Court Action are attached as follows:

- a. Complaint, attached as Exhibit “B”;
- b. Sheriffs Entry of Service as to Taco Bell of America, attached hereto as Exhibit “C”;
- c. Sheriffs Entry of Service as to Taco Bell of America, attached hereto as Exhibit “D”;
- d. Defendants’ Answer and Additional Defenses, attached hereto as Exhibit “E”.

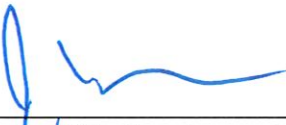
12. Concurrent with the filing of this Notice of Removal with this Court, Defendants will provide Notice of Removal to the Plaintiff, through the attorney of

record in the State Court Action, as required by 28 U.S.C. Section 1446 (d), as well as notice to the Clerk of the State Court of Gwinnett County.

13. This Notice is timely, being filed within thirty (30) days of service of the Complaint on the Defendants.

This 1st day of September, 2021.

MABRY & McCLELLAND, LLP

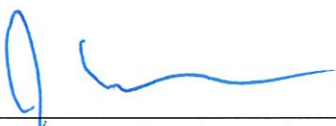
By: 
James W. Scarbrough
Georgia Bar No. 628328
Attorney for Defendants Yum! Brands, Inc.,
Taco Bell of America, LLC

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within and foregoing pleading upon opposing counsel of record via CM/ECF E-file, to:

Mr. Andrew B. Cash
Mr. Shane E. Bartlett
CASH, KRUGLER & FREDERICKS, LLC
5447 Roswell Road, NE
Atlanta, GA 30342

This 1st day of September, 2021.



James W. Scarbrough